

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No. 355 of 2025

Applicants : 1). Yousuf son of Mansha Masih  
2). Wishal @ Lalu son of Yousuf,  
Through Mr. Deen Muhammad Jiskani, Advocate

Respondent : The State  
Through Ms. Rahat Ehsan, Addl. P.G Sindh  
duly assisted through Mr. Muhammad Akbar  
Awan, Advocate for the complainant.

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Respondent : The State  
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Awan, Advocate for the complainant.

Date of hearing : 28.04.2025

Date of order : 12.05.2025

## ORDER

**KHALID HUSSAIN SHAHANI, J.** – Through the instant two bail applications, accused above named seeking post-arrest bail, accused in Cr. BA No. 355/2025 seeking bail in a case bearing Crime No.592/2024, for offence under section 147/148/149/324 PPC of P.S Peerabad, while accused Yousuf also seeking bail in BA No.356/2025 for offence under section 23-1(a) of Sindh Arms Act, 2013. Previously bail of accused were declined by the learned Additional Sessions Judge-XII Karachi East vide orders dated 13.01.2025.

2. According to prosecution theory, the complainant, a government employee, alleged that on 06.11.2024, while returning from a marriage ceremony at around 2230 hours with companions Neel and Kashif @ Kashoo, he approached one Yousuf at his shop to lodge a complaint. During the conversation, Yousuf, along with Pervaiz (son of Munshi Masih), Wishal @ Lalu, Shehriyar @ Sher, Faizan (all sons of Yousuf), Kashif @ Kashoo, and two unidentified persons allegedly attacked the complainant and his associates with sticks and iron rods. It is further alleged that Yousuf fired shots from the rooftop, causing firearm injuries to Dawood and Nabeel, while others, including Zain, Sikandar, Moon,

Youhanna, and the complainant, sustained various injuries. Consequent upon; case was registered inter-alia on above facts.

3. The investigation was assigned to the SIO of the concerned police station. Later on accused Yousuf was arrested on the same date from a road along with co-accused Wishal and from the possession of accused Yousuf, a 9mm pistol along with live rounds were recovered, hence the separate case u/s 23-1(a) Sindh Arms Act 2013, was registered against him.

4. Learned counsel for the applicants submitted that they have been falsely implicated in the present case due to prior enmity. He stated that the complainant, along with others, came to the applicants' residence, started a quarrel, and issued threats. A counter-report was filed by the applicants, but due to mala fide and with the connivance of police, the complainant managed to lodge the FIR to settle scores. He further pointed out that the alleged incident occurred on 06.11.2024, yet the FIR was lodged on 07.11.2024 with no plausible explanation for the delay, despite the police station being only 4.5 kilometers away. It was argued that the role attributed to accused Wishal is general in nature, without specific overt act. The co-accused have already been granted bail on the basis of compromise. Five persons are said to have sustained injuries by iron rods, not firearms, and no specific allegation of firing is made against the present applicants. The recovery of a weapon from accused Yousuf is also doubtful. He contended that there is no eyewitness account specifically implicating the applicants and that the case, at best, calls for further inquiry under Section 497(2) Cr.P.C. The applicants are permanent residents of Karachi, with no risk of absconding or tampering with evidence, and are willing to furnish surety.

5. Conversely, learned APG for the State, duly assisted by learned counsel for the complainant, opposed the bail plea and argued that the applicants are nominated in the FIR with specific allegations. It was submitted that the incident was premeditated and occurred when the complainant party approached the accused persons regarding a prior dispute, whereupon the accused, including the applicants, assaulted them with iron rods and batons, and co-accused Yousuf opened fire, causing firearm injuries to multiple persons. It was further contended that five individuals sustained injuries, some of whom received firearm wounds, indicating the seriousness of the offence. The role of each accused is supported by ocular account and medical evidence. The delay in lodging

the FIR was justified on the ground of shifting the injured to hospital for medical treatment. The learned counsel for the complainant emphasized that mere compromise by some co-accused does not absolve the remaining accused, particularly when serious allegations involving bodily injuries and use of firearms are attributed. It was argued that the allegations against the present applicants are not vague or general but sufficiently specific to attract Section 324 PPC and allied offences. They prayed that the bail application be dismissed as the applicants do not deserve the concession of bail in light of the gravity of the offence and the available prima facie material.

6. From a perusal of the FIR and the material collected during investigation, it transpires that accused Yousuf has been specifically assigned the role of resorting to firing from the rooftop of his premises, which allegedly resulted in firearm injuries to multiple persons. The recovery of a pistol from his exclusive possession, coupled with a positive FSL report confirming that the weapon was functional at the time of examination, prima facie connects him with the act of firing. The contention regarding non-recovery of spent shells or lack of forensic cross-matching is not convincing at this stage, as the firing is alleged to have occurred from premises admittedly under the control of the accused, and such omission, by itself, would not disentitle reliance on other incriminating material at the bail stage. Furthermore, the statements of the complainant, injured parties, and other independent witnesses are consistent and mutually corroborative, thereby lending prima facie support to the prosecution's version. The case of applicant Yousuf does not fall within the ambit of Section 497(2) Cr.P.C., as sufficient material exists connecting him to the commission of a cognizable and non-bailable offence punishable up to ten years, thereby attracting the prohibitory clause of Section 497(1) Cr.P.C. No mala fide or enmity has been alleged to suggest false implication of the said accused.

7. In contrast, the role attributed to applicant Wishal @ Lalu is of a general nature involving use of sticks and iron rods along with other co-accused, without specific attribution of firearm use or causing firearm injury. No recovery has been effected from his possession. The case against him, therefore, stands on a distinguishable footing. While the case against accused Yousuf appears to be supported by specific allegations, corroborated by medical evidence and weapon recovery, the allegations against accused Wishal appear to require further inquiry within the meaning of Section 497(2), Cr.P.C.

8. In view of the above, bail applications of accused Yousuf S/o Mansha Mashi are dismissed, whereas accused Wishal @ Lalu S/o Yousuf is admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One hundred thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. The observations made herein are tentative in nature and shall not prejudice the trial court in deciding the matter on merits.

**J U D G E**